

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BAJIT KAUR,

Plaintiff,

v.

ALAMEIDA, et al.,

Defendants.

) CV F 05 276 OWW DLB

) ORDER RE PLAINTIFF'S DISCOVERY
) MOTIONS

Plaintiffs Baljit Kaur, Harnoor Kaur, Gurkirat Singh, and the estate of Khem Singh ("plaintiffs") filed a motion for discovery and for sanctions on February 5, 2007, a motion to expand number of depositions on February 6, 2007, and a motion to continue various depositions on February 7, 2007. The motions were heard on March 2, 2007 before the Honorable Dennis L. Beck, United States Magistrate Judge. Catherine Campbell, Carolyn Phillips and Robert Navarro appeared on behalf of plaintiffs. Alvin Gittisriboongul, Peter Hirsig, Kathleen Williams and John Ohnstad appeared on behalf of defendants.

BACKGROUND

Accordingly to the second amended complaint, Khem Singh, a 72 year old monolingual, Punjabi-speaking elder at the time of his death, was incarcerated from October 15, 2001 until February 16, 2004 at the California Department of Corrections Substance Abuse Treatment Facility, Corcoran, California ("SATF"). Mr. Singh was a priest in the Sikh religion, which

1 prohibited him from eating meat or eggs and from eating any other food that was on the same
2 plate as meat. He was also disabled and in a wheelchair. Plaintiffs allege that throughout his
3 incarceration, Mr. Singh was denied medical and mental health care, he was abused, assaulted
4 and harassed. Plaintiffs contend that Mr. Singh eventually retreated to his cell, refused food and
5 died of starvation on February 16, 2004, weighing 80 pounds.

6 DISCOVERY DISPUTES

7 **1. Plaintiffs' Motion to Compel Discovery Related to Seven Requests for Production** 8 **served on Defendants represented by Attorney General's Office.**

9 The following discovery requests are at issue in this motion:

- 10 a. First Request for Production - Request Nos. 1 through 8, 10, 13, 14, 19 through
11 22, 23 through 28, 30, 32, 33, 36 through 39, 41, 42, 44 and 45.
- 12 b. Second Request to Produce: Request Nos. 1 through 5.
- 13 c. Third Request for Production: Request Nos. 1, 3 and 4.
- 14 d. Fourth Request for Production: Request No. 1.
- 15 e. Fifth Request for Production: Request No. 1.
- 16 f. Sixth Request for Production: Request Nos. 1 through 6.
- 17 g. Seventh Request for Production: Request No. 1.

18 Based on the discussions at the hearing, defendants are ordered to provide further
19 responses to these requests by March 31, 2007. Defendants are ordered to provide a copy of the
20 response to the Court.

21 Plaintiffs seek sanctions in the form of attorneys' fees incurred as a result of this motion.
22 Plaintiffs' motion for sanctions will be taken under submission to be considered in part based on
23 defendants' further responses to discovery.

24 **2. Plaintiffs' Motion for Expansion of Number of Depositions.**

25 Plaintiffs seek an order that they may take a total of 35 depositions in this case. The
26 parties have worked out a deposition schedule for 30 depositions.

27 Defendants have no objection to the depositions listed in the Exhibit as previously agreed
28 upon but request that additional depositions not be scheduled until all the people plaintiffs intend

1 to name in this lawsuit are brought in so that none of the defendants or witnesses will be subject
2 to a second deposition.

3 Plaintiffs' motion is granted. As discussed below, the parties shall meet and confer
4 regarding scheduling.

5 **3. Plaintiffs' Motion to Continue Various Depositions and for Telephonic Depositions.**

6 Plaintiffs request an order allowing them to conduct three depositions by telephone and
7 that the depositions of Benjamin Edger, MTA Shaw, MTA Langner and the witnesses
8 interviewed by Internal Affairs be set and/or continued.

9 Plaintiffs' motion to continue various depositions and to conduct depositions
10 telephonically is granted.

11 Plaintiffs' motion to continue the depositions of Benjamin Edger, R.N., MTA Langner,
12 MTA Shaw, CCI Whitten, CO Goswami, and RN Woffard is granted. Counsel for plaintiffs will
13 not be required re-subpoena these witnesses to reschedule their depositions. The deposition of
14 defendant Vijaya will occur telephonically. This does not resolve the question whether and how
15 Mr. Edger, who now lives in Winnipeg, Canada, will be subject to deposition, and the parties
16 will work to resolve that issue, with a telephonic deposition an option counsel will consider.

17 **5. Plaintiffs' Request for Informal Resolution of Discovery Dispute.**

18 On February 28, 2007, plaintiffs submitted a request for informal resolution of discovery
19 dispute relating to the deposition of defendant Dr. Nandan Bhatt. Plaintiffs represent that on
20 October 16, 2006, the parties scheduled the deposition for March 1, 2007. On February 20,
21 2007, Kathleen Williams sent an e-mail stating that she would not allow Dr. Bhatt to be deposed
22 on March 1, 2007 because she understood that plaintiffs intend to amend the complaint and she
23 did not want Dr. Bhatt exposed to an additional deposition. On February 27, 2007, Ms. Williams
24 cancelled the deposition.

25 At the request of their counsel, Ms. Kathleen Williams, the depositions of Drs. Bhatt,
26 Gonzales, and Hirbour will be continued until after the above-named future defendants (MTA
27 Shaw, RN Wofford, RN Edger, CCI Whitten, and CCII Diaz) have resolved the question whether
28 they will have new counsel and, if they are going to have new counsel, that counsel is retained

1 and has prepared to represent the interests of MTA Shaw, RN Wofford, RN Edger, CCI Whitten,
2 and CCII Diaz at the depositions of Drs. Bhatt, Gonzales, and Hirbour. The deposition of Dr.
3 Underwood will go forward as scheduled.

4 **6. Miscellaneous**

5 At the hearing, the parties agreed as follows:

6 Counsel for CDCR Peter Hirsig and Deputy Attorney General Gittisriboongul agreed to
7 provide to plaintiffs' counsel copies of the documents contained in Mr. Singh's cell, now
8 contained in the SATF evidence locker, and copies of the two taped interviews of inmates in the
9 evidence locker, within 15 days or by March 19, 2007. In addition, counsel agreed to provide an
10 inventory of the contents of the evidence locker by the same date. If they are unable for any
11 reason to comply with this order, they are to notify the court and counsel as to the reasons why
12 they are unable to do so and the time frame in which they believe it is possible to comply.

13 Mr. Hirsig and Mr. Gittisriboongul also agreed to provide plaintiffs' counsel a CDCR
14 and SATF chain of command for medical, mental health, and dental care from 2000 to February
15 16, 2004 on or before March 22, 2007. The parties agreed that thereafter they would work
16 together to develop a stipulation to amend plaintiffs' complaint. Plaintiffs will circulate their
17 third amended complaint as soon as they have received the above chain of command information.

18 Plaintiffs' counsel represented that plaintiffs intend to amend their complaint to add MTA
19 Shaw, RN Wofford, RN Edger, CCI Whitten, and CCII Diaz as defendants. Defense counsel
20 shall decide whether each of these persons needs separate counsel. Plaintiffs have agreed to
21 circulate a third amended complaint as soon as they are able to do so. If the parties stipulate to
22 the filing of a third amended complaint, the court will hold a status conference hearing regarding
23 service of that complaint shortly thereafter, if necessary. Depositions of the proposed new
24 defendants should not go forward until the third amended complaint is filed and the issues
25 regarding the new defendants' representation have been resolved.

26 Ms. Kathleen Williams agreed to provide training records on behalf of the defendants
27 whom she represents.

28 Mr. Hirsig, counsel for the CDCR, agreed to work with plaintiffs' counsel to set up the

complete tour of SATF within 30 days, or by April 2, 2007.

The Court hereby adopts the parties' agreements as its own Order.

CONCLUSION

Based on the foregoing, plaintiffs' motions are granted in part as follows:

1. Plaintiffs' motion to compel discovery, filed February 5, 2007 is granted.
Defendants are ordered to provide further responses to the requests by March 31, 2007. Defendants are ordered to provide a copy of the response to the Court;
2. Plaintiffs' motion to expand the number of depositions, filed February 6, 2007 is granted, subject to defendants' right to object. The parties shall meet and confer regarding scheduling;
3. Plaintiffs' motion to continue various depositions and to conduct various depositions telephonically, filed February 7, 2007 is granted;
4. The depositions of Drs. Bhatt, Gonzales, and Hirbour are continued as discussed herein;
5. Depositions of the proposed new defendants should not go forward until the third amended complaint is filed and the issues regarding the new defendants' representation have been resolved; and
6. The agreements made by the parties at the hearing as described herein are adopted as the Court's Order.

IT IS SO ORDERED.

Dated: March 27, 2007
3b142a

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE